

Making Sense of Incentives and Sanctions in Working with the Substance Abusing Offender

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Substance abuse has long been recognized as a major factor in crime. A 1998 study by Columbia University's National Center on Addiction and Substance Abuse found that 80% of those behind bars were seriously involved with alcohol or drug abuse.¹ A 2001 report by researchers from the Bureau of Justice Statistics estimated that on an average day, the criminal justice system supervises more than 2 million offenders who were drinking at the time of the offenses for which they were committed.²

In recognition of the link between substance abuse and crime, there has been a movement over the past decade to integrate substance abuse treatment into the criminal justice system through efforts such as drug courts, community supervision interventions, and residential treatment in prisons. These programs have achieved promising results by using the leverage of criminal sanctions to bring offenders into treatment and keep them there long enough to experience its benefits.

While most traditional criminal justice programs emphasize punishment, research tells us that punishment by itself is not an effective way to bring about long-term behavior change—partly because the punished behavior tends to return when the punishment is discontinued. Research also indicates that a combination of punishments (sanctions) and rewards (incentives) is more effective.² However, professionals who attempt to combine sanctions with incentives often encounter a number of challenging questions. This

12 Frequently Asked Questions about Incentives and Sanctions

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paper poses and answers some of the questions frequently asked by policy makers, program administrators, judges, treatment providers, and others who work with substance abusing offenders.

Although research on the use of incentives and sanctions specifically with substance abusing offenders is relatively new, there does exist a large and well-established body of research on behavior modification that can shed light on how best to support behavior change in this specific

population. The answers to questions addressed in this paper draw primarily from these general principles of behavior modification, supplemented by studies of substance abuse treatment with a general population, and, when available, by research specifically on substance abusing offenders.

We don't have all the answers yet, and we continue to learn as we gain experience in using incentives and sanctions with substance abus-

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ing offenders. Additional research would be beneficial, particularly in institutional settings where implementing incentives and sanctions requires collaboration among the multiple people who are in a position to administer them at different times. However, until our knowledge base expands, this paper will provide some key ideas based on the research and practice to date, and may also serve as a foundation for discussion in the field.

Note that the term “offender” as we use it here refers to both “offender and defendant” so that the answers apply to pre-trial services as well as post-adjudication programs.

Answers to Frequently Asked Questions

1 Is there a ready-made list of sanctions and incentives we could use? Yes, there are such lists, and they might be a good place to start. It’s important to keep in mind, however, that the specific incentive or sanction is less important than *how* it is delivered. The research tells us that in order to bring about a change in behavior, an incentive or sanction needs to be *immediate, certain, fair*, and of the *appropriate intensity*.⁴ (In the answers to questions below, we’ll discuss each of these in greater detail.) A list can make it easier to administer sanctions and incentives in a way that meets these criteria. But it won’t guarantee that incentives and sanctions will be effective.

The limitation of a standardized list is that no single set of incentives and sanctions will be effective for everyone.⁵ A strong incentive for one person might be meaningless to another. For example, free tutoring to prepare for a GED exam will be of little use to an offender who

already has a high school diploma. Similarly, the use of jail as a sanction could be counterproductive for a mother with sole custody of her children.

To take individual differences into account, it’s useful to structure a range of graduated incentives and sanctions that can be tailored to address the needs of each offender and the community. Vouchers (certificates to cover purchases at particular stores) are especially easy to tailor because the offender can select from a range of approved items. During a presentation by graduates of a drug court program, one woman reported that vouchers had motivated her to attend treatment because she was able to use them to purchase baby diapers and formula. Another had used vouchers to buy clothing for work.⁶

One way to develop a comprehensive and reliable list of incentives and sanctions is to conduct focus groups with a cross section of offenders in your program. Then you can tailor the general list to individual offenders by adding questions to your assessment interview designed to reveal an offender’s interests, preferences, and abilities.

If you want to consult a ready-made list, the National Drug Court Institute maintains a file of sanctions and incentives collected from jurisdictions nationwide that could be used as a starting point for generating your own ideas. (E-mail requests for copies to whuddleston@ndci.org.)

To be most effective, incentives and sanctions need to be....

Certain. Avoid surprises. Make sure that offenders know ahead of time how you’ll respond to each accomplishment or infraction. Then follow through. (See questions 5, 7, and 8.)

Immediate. Respond quickly to each accomplishment or infraction so that the offender will associate the incentive or sanction with the behavior you’re trying to encourage or discourage. (See question 4.)

Fair. Keep in mind that fairness doesn’t mean treating everyone exactly alike. The same incentive or sanction could have very different impacts depending on offenders’ particular life circumstances. So be prepared to tailor your responses, but also be prepared to explain why. (See questions 1, 6, and 9.)

of the Appropriate Intensity. Take into account where the offender is in the program and the magnitude of the accomplishment or infraction. A dirty UA in week 2 is not equivalent to the same infraction a month before graduation. (See questions 2 and 12.)

2 **Should we start out giving a strong sanction to get the offender's attention, or should we build up to that?** The initial sanction needs to be strong enough to at least create some discomfort and communicate that program infractions will be noticed and responded to, but not so strong that there is no room to increase the intensity. A sanction so strong that it is perceived to be harsh or humiliating could trigger defiance, retaliation, or a sense of helplessness that would undermine the offender's motivation to change. At the same time, sanctions need to gradually increase in intensity, but not so slowly that an offender might "become habituated"—that is, gradually accommodate to the incremental changes so that even a strong sanction, once reached, would have little impact.⁷

In general, the intensity of a sanction or incentive should always be proportional both to the conduct being recognized and to the program's expectations of an offender at that particular stage in the program. As in the example in the box above right, at the beginning the focus needs to be on getting the offender to comply with basic daily expectations—attending treatment sessions and showing up for drug testing.

An example of "Appropriate Intensity"

An offender misses a drug test soon after starting a drug-court program. At staffing, the drug-court team discusses appropriate sanctions. They agree that a sanction of detention would be too strong. On the other hand, a verbal threat ("Next time there will be a consequence") would be too weak. Eventually they decide to increase the frequency of drug testing and also to increase the level of supervision by requiring more frequent reporting. This response meets the criterion of "appropriate intensity": It will get the offender's attention and ensure a consequence—but without provoking defiance or undermining the offender's motivation to change.

3 **Are we coddling offenders by giving them incentives?** No. Incentives work. Ultimately, they help to reduce crime and prevent victimization, and so giving them is in our best interest.

The preliminary analyses of a 2004 study have shown that by incorporating rewards into a drug court program, it is possible to double the rates at which offenders make timely progress towards graduation—even for very serious offenders.⁸ Other studies comparing the effects of incentives and sanctions have found that substance abusers who are rewarded are likely to stay in treatment while those who are punished tend to drop out.⁹ And because longer time in treatment increases treatment success,¹⁰ it follows that offenders who receive incentives will be more likely to conquer their substance abuse and less likely to re-offend. Incentives can help to make abstinence more rewarding than substance use.

In fact, punishment alone may be the *least* effective way to change behavior. If used excessively or inappropriately, punishment can provoke anger, fear, escape, avoidance, or helplessness—responses likely to undermine an offender's motivation to change.¹¹ Punishment is most likely to be effective when used in combination with positive reinforcement.¹² For this reason, a better approach is to *combine* sanctions with incentives in a coordinated plan for reducing substance abuse and increasing pro-social behavior.

Although incentives *sound* like a new idea, they are actually well established in the criminal justice system. For example, reducing jail or prison time as a reward for good behavior – "good time"—is a form of incentive known as "negative reinforcement."¹² By giving good time in response to a desired behavior, you decrease the intensity (length) of a punishment. This in turn increases the probability that the desired behavior will be repeated.

Incentives are best used to reward new behaviors that the offender is not yet motivated to perform.¹⁴ Keep in mind, however, that incentives have the potential to create dependence: An offender who becomes accustomed to being rewarded for every positive behavior may relapse after leaving supervision. We address this problem in Question #12.

Examples of "negative reinforcement"

- Reducing the frequency of court hearings (drug court related)
- Moving curfews to a later time
- Reducing restrictions on travel outside the county
- Shortening the time spent under supervision
- Reducing restrictions on use of earned monies
- Reducing the frequency of visits with the probation or parole officer

4 Does it matter how long you wait after the behavior is detected to give a sanction or incentive?

Yes, it matters a lot. Studies have shown that the effectiveness of a sanction or incentive declines dramatically as the length of time between the behavior and the response increases.¹⁵ During the delay, other behaviors will intervene, and the sanction or incentive may become associated with those rather than the behavior you were trying to target. So the longer you wait to administer the sanction or incentive, the less likely it is to have the intended impact. The rule of thumb is: The sooner the better.

“...there need to be agreements ahead of time among all those working with the offender—the judge, other supervisors, treatment providers, and others—that specify what sanctions would be appropriate, how the sanction will be administered, what latitude you have in selecting and implementing the sanction, and where any needed resources will come from.”

However, in the real world, applying this rule can be complicated. Because of large case loads and crowded judicial dockets, the traditional practice in probation, parole, and the courts is to wait for multiple infractions before intervening. Say it's Friday afternoon, and an offender in drug court does something that warrants a sanction. But the offender isn't scheduled for another court appearance for two weeks. What do you do?

In theory, you should respond immediately. But in order for you to do this, there need to be agreements ahead of time among all those working with the offender—the judge, other supervisors, treatment providers, and others—that specify what sanctions would

be appropriate, how the sanction will be administered, what latitude you have in selecting and implementing the sanction, and where any needed resources will come from. Putting these agreements in place takes planning. Carrying them out requires good training and supervision, as well as ongoing communication and trust among criminal justice and treatment providers. In short, the prompt delivery of sanctions and incentives depends on a commitment of time and effort by everyone involved.¹⁶

Even when those working with offenders have the authority and resources to issue sanctions and incentives, their response may not always be immediate. In a study of community supervision, researchers found that even when staff had adequate time to meet with offenders, they were often reluctant to confront negative behavior after one incident, and instead waited until there were several infractions.¹⁷ This finding points to a need for staff to be trained both in the importance of responding quickly and in the communication skills that would help them address non-compliant behavior.

Finally, because you can't reward or sanction behavior that you don't know about, responding swiftly depends also on a reliable system for monitoring offender behavior through frequent contacts, good rapport between supervisor and offender, and accurate drug-testing.

5 What do you do if an offender exhibits both desirable and undesirable behaviors during the same period of time? Do you give both an incentive and a sanction?

Although there is little research that directly addresses this question, we do know this: During the process of behavior change, it is critical to respond to every occurrence of the “target” behavior (the behavior you're trying to eliminate or increase). Offenders who receive sanctions on a continuous schedule have significantly lower re-arrest rates than those who are sanctioned intermittently.

Similarly, positive reinforcement brings about more rapid behavior change when given every time the target behavior occurs.¹⁸

However, we also know that once a new behavior is well established, it's not necessary to reward it every time. In fact, “intermittent” rewards work best for maintaining a behavior. (This is too complex a topic to explain in detail here; a good place to learn more is the book by Martin and Pear listed on page 12 under “Further Reading.”)¹⁹

Reasoning from these findings, it appears that the best strategy would be to give *both* an incentive *and* a sanction, linking each to the specific behavior it corresponds to. For example, you might give a sanction for missing a treatment session, and a reward for reaching one month of consecutive clean urines—making absolutely certain the offender understands what each sanction and incentive is for. In this way, you can respond to both desirable and undesirable behaviors while at the same time minimizing the chance of rewarding or sanctioning the wrong behavior.

Even when an offender presents a major accomplishment, an infraction during the same time period should not be ignored. For example, if after six months in the program and a month of sobriety, an offender passed the GED exam but also had a dirty UA, you would certainly reward the achievement. But to maintain consistency, you would also have to respond to the dirty UA. Similarly, even when you have to sanction a glaring infraction, it's still important to acknowledge any small but positive steps the offender might have taken toward a goal. For example, if an offender were caught adulterating a urine sample, but had also established a regular pattern of attendance at treatment over the previous two weeks, it would be important to acknowledge the progress while also sanctioning the infraction.

Whether you focus more on the infraction or on the achievement—and how strongly you respond to each—depends on how far the offender has progressed in your program. Early in the program,

Example:

Over the past month, an offender has been going to treatment regularly, paying child support, and working. At the same time, he has not met his evening reporting center obligation over two weekends. Because he can verify that he spent the weekend time with his children, it would be tempting to overlook the infraction and allow him to simply make up the time. But the danger in not responding to his infraction would be giving the message that he won't be held accountable. The appropriate response would be to praise and reward his successes and impose a sanction such as a moderate fine or extra hours at the evening reporting center.

you want to focus more on what behavioral psychologists call “proximal” behaviors. These are short-term goals that program participants can be expected to engage in fairly rapidly and that are necessary for future improvement to occur—for example, attending treatment. Over time, the focus should shift to “distal” behaviors. Distal behaviors take longer to accomplish, but they are the ultimate goal for program participants (for example, abstinence from drugs and crime).²⁰

So, if an offender is at an early stage in treatment and shows up for treatment sessions but has dirty urines, you would give lots of praise and reinforcement for the attendance, but only small sanctions (such as increased house arrest hours) for the drug use. In contrast, if the offender is six months into the program, you can expect good attendance and, although you might acknowledge it in passing, you would not make a fuss over it. Drug use, however, is now no longer acceptable and you would sanction it more severely than you did early on.

6 Why do incentives and sanctions sometimes have a different effect from what we intended? Sometimes, despite your best efforts, a reward or sanction seems to backfire, leaving you puzzled about what could have gone wrong.

- A young woman turns in a clean urine sample for the third week in a row. You congratulate her and hand her two free movie passes. As she takes them, she averts her gaze and says nothing. The next week she misses her appointment.
- A complacent, middle-aged man has failed to appear for a required group therapy meeting and has no explanation for the absence. Because he's new to your program, you give him just a mild sanction of two hours in the jury box. You're astonished when he responds by crying out angrily in a language you don't recognize.

The key to making sense of these situations is to remember this: In the end, what you *intend* doesn't matter; all that matters is what the offender *perceives*—because that's what determines the ultimate effect of the sanction or incentive.²¹

There are many reasons that an offender's perception of an incentive or sanction might differ from what you assumed it would be. In some cases, the offender simply may not be able to take advantage of a reward. For example, if the young woman described above has several small children, no babysitter, and no money for the bus that would get her to the theater, the free movie passes you've given her will be useless at best. And at worst—if she interprets your giving

them to her as a sign that you fail to understand her stressful life situation—they may undermine her motivation to show up for appointments with you.

“In the end, what you intend doesn't matter; all that matters is what the offender *perceives*—because that's what determines the ultimate effect of the sanction or incentive.”

In other cases, a sanction you consider appropriate—for example, two hours in a jury box for a missed appointment—could be experienced as overly harsh and unfair by someone with strong ties to a culture that reserves public shaming for serious, violent offenses. The perception of *unfairness* can have especially serious consequences. Some researchers theorize that it contributes to a stance of *defiance* so that instead of refraining from the sanctioned behavior, the offender will purposely repeat it—an outcome exactly opposite of what was intended.²² (We discuss the issue of fairness further under question #9 below.)

The only way to make certain that a sanction or incentive will have the desired effect is to consider carefully how it will be experienced by the person receiving it, drawing on your knowledge of each offender's unique life circumstances and background.

A partial example of a “behavioral contract”

Goal	Behaviors/Tasks	Incentives	Non-compliance	Sanction
Gain employment	Set up and attend interviews	Praise Recognition Appt Calendar	Failure to get or attend interviews	Increased reporting Limit free time Electronic monitoring House arrest
	Get job	Work clothing Paycheck	Failure to start a job	Same as above

7 Should we tell offenders at the beginning of supervision about all the possible incentives and sanctions they could be given? Yes. Each possible type of incentive and sanction—and the accomplishment or infraction that will cause you to impose it—needs to be spelled out clearly right from the start. Without this mutual understanding, there will be no foundation for certainty and consistency. And if offenders experience sanctions and incentives as coming from “out of the blue,” they may lose a sense of connection between their own actions and your responses; this could lead to feelings of victimization and helplessness.²³ Knowing ahead of time what will happen in response to their actions (or in-actions) puts them in control and fosters a sense of responsibility for the outcome of their relationship with the criminal justice system.

One way to clarify expectations is to involve the offender in completing a standardized written “behavioral contract” that lists mutually determined goals for the offender, what he or she will do to accomplish each goal, what behavior will be considered “non-compliant,” and the incentives or sanctions that will follow each accomplishment or act of non-compliance.

Both the supervisor and the offender need to sign the contract. Periodically it should be reviewed so that if the offender’s life circumstances have changed, you can adjust the sanctions and incentives to make certain they’re still appropriate.

8 Is it ever OK to give a “second chance” by withholding a sanction? Probably not. Even though it might seem humane to overlook an infraction—particularly if it’s a relatively minor mistake—giving second chances by not imposing an expected sanction might actually do more harm than good. Here’s why.

When you overlook a noncompliant behavior, you’re choosing *not* to respond to a particular occurrence of that behavior. Responding intermittently, especially early in the program, can create a situation in which the offender will risk repeating the noncompliant behavior on the chance that there will be no consequence. So we can expect that a person who is sanctioned for using

drugs one time but not the next time will be less likely to refrain from drug use in the future than another person who is sanctioned for every infraction.²⁴

Second chances also raise issues of fairness. If other offenders observe as you fail to follow through on a planned sanction (or if they hear about your decision second-hand), it will create the appearance that you’re “playing favorites” and also will lead them to expect that you’ll overlook infractions on their part as well.

At the same time, because the decision to give a second chance is in the hands of the supervisor, it takes control away from the offender by creating a disconnect between his or her actions and the

The Danger of Second Chances: An Example

Two offenders, both in a program’s first phase, have missed a drug test. The guidelines state that a missed test will be treated the same as a positive or dirty test. The sanction is home detention.

The first offender pleads for a second chance. She explains that she has just started a job, and she ran out of gas before she could get to the courthouse for her testing. Although you’re willing to schedule the home detention in the evening so she can continue to work, she complains that evening detention will keep her from taking care of an ailing aunt who lives across town. You decide not to impose the sanction.

The second offender also pleads for a second chance. He explains that he is unemployed, has no money for a car, and missed the test because his ride to the courthouse did not show up. You decide to impose the sanction of home detention. He cries “unfair” because he was sanctioned and she was not.

A month later the first offender misses another drug test when she has to work late and can’t get to the testing site in time. She becomes upset when you put her on home detention, claiming that you are inconsistent because you “listened to her” the first time.

consequences of those actions. As we discussed in question #7, this disconnect can contribute to a sense of helplessness that will make it harder for the offender to take responsibility for making life changes. In short, your well-meaning attempt to do a favor can actually keep an offender under supervision longer.

If you find yourself frequently tempted to give second chances—either with a particular offender, or in general—it could be a signal that something is amiss with your program of sanctions. For example, if your initial sanctions are so harsh that they seem to be undermining offender motivation, that could account for your impulse to set them aside. In this situation, it would be better to revise the sanction schedule to make it one that you feel comfortable applying consistently, rather than to continually adjust it by giving second chances.

Individualizing Sanctions to Maintain Fairness: An Example

Two offenders assigned to the same Probation Officer violated the terms of their probation in exactly the same way: Both missed two consecutive appointments. In both cases, the Probation Officer responded by raising the level of supervision, but in different ways. One offender, a man without a family, was ordered to attend an evening reporting center. The other, a woman with young children and no childcare, was instead put on house arrest. For her, a requirement of evening reporting would have imposed a much greater burden, making it an unfair sanction. By tailoring the sanction to the individual, the probation officer maintained fairness.

9 On the one hand, you're asking us to be fair and consistent. On the other hand, you're asking us to tailor the sanctions and incentives. How can we do both at the same time? It may sound contradictory to say that a supervisor should tailor sanctions and incentives to individual offenders and at the same time be fair and consistent with all offenders. But in practice, these principles are fully compatible—and may even complement one another.

As discussed under question #1, the same incentive or sanction could have very different impacts on offenders in differing life circumstances. So treating everyone in exactly the same way doesn't guarantee "fairness." By tailoring incentives and sanctions within a predetermined range, (as discussed under Question #1) you can make certain that your response to a particular type of behavior will have approximately the same impact on each person you supervise. In effect, you're making incentives and sanctions *more* fair.

Be aware, however, that offenders may not understand why you're treating them differently from another person with the same infraction and may perceive the discrepancy as unfair. They might even conclude that they're being singled out and that the sanction is intended as a personal rejection—a reflection on them rather than a response to something

they've done. This perception of unfairness could lead them to become defiant. So you need to be prepared to explain your reasons for treating one person differently from another.

Under time pressure, it can be tempting to dismiss complaints of unfairness with statements such as "No one said the world was fair" or "Fairness isn't the issue, your behavior is." But in the long run, responding in this way is likely to be counterproductive. It may work better to acknowledge the discrepancy and recount the reasoning behind it. Often, when offenders complain that a sanction is unfair, what they really want is to have their view of the situation taken seriously. This doesn't mean that you have to agree with them. You simply need to listen and acknowledge their point of view.²⁵

Finally, keep in mind that the way you communicate a sanction also makes a difference in how it will be perceived. A large body of research on the interaction style of professionals finds a difference in the impact of confrontive and supportive approaches. In a study of alcohol abusers, for example, interventions that used open-ended questions to encourage the client to talk resulted in greater reductions in alcohol use and less resistance to change compared to more confrontive, directive interventions.²⁶

10 How can we afford to give incentives? While it's true that some successful incentive programs are expensive, incentives can also save money by reducing the number of drug tests and the hours of staff time devoted to supervision. And over the long run, if incentives help to keep offenders in treatment and increase rates of graduation, the long-term economic benefits to society (from reduced drug use and recidivism) may well be greater than the initial costs.

Even so, to programs struggling to stay within a budget, giving rewards may at first appear to be impractical. Most studies of vouchers in drug treatment, for example, have found that patients can earn \$1000 or more over the course of their treatment, with the average cost per patient about \$600.²⁷

Fortunately, to be effective, incentives don't have to be elaborate or expensive. Movie passes, game tickets, small-value gift certificates, and other inexpensive items donated by local businesses and organizations can work well to acknowledge an offender's initial small steps toward the goals of supervision. And some of the most powerful reinforcers—recognition, approval, and praise—cost nothing at all. Remember though that even if the incentive you're giving is "social" rather than "tangible," you'll still need to consider how it will be perceived by the offender (as discussed above in the responses to questions #1 and #6). Your words of praise, when bestowed publicly on someone who hates to be singled out for attention, might not be experienced as a reward.

If you can obtain even a few high-value items or services, you can maximize their impact by using a "fishbowl"—a technique devised to replicate the positive results of vouchers without the costly investment. In this approach to incentives, rather than receiving a reward

directly, the offender gets a chance to draw a slip of paper from a fishbowl. As researcher Nancy Petry describes it:

"Each draw has the possibility of winning a prize, but they don't always win prizes. Half of the time they draw from the bowl, they don't win anything at all: The slip says, 'Good job. Try again.' About half the time, they get a small prize worth about a dollar, like their choice of a gift certificate to the donut shop, a bus token, or some costume jewelry. A few slips say 'large prize,' and those are worth about \$20—like watches, Walkman devices, and sweatshirts. One of the slips of paper in the bowl is the jumbo prize—something like a TV or a VCR... The approach retains all the key features of the voucher system—for example, consecutive drug-free urine tests are rewarded with increasing numbers of draws. But instead of the average cost of \$600 per patient in voucher trials, patients in our studies usually earn about \$200 in prizes."²⁸

Even though this technique might appear to resemble gambling, the difference is fundamental: With the fishbowl, participants never lose and can only win. Research on the technique has concluded that it is highly unlikely to precipitate gambling behavior.²⁹

Ultimately, the best and most long-lasting incentives are those that come from the offender's everyday environment as a consequence of his or her own efforts—a paycheck from a job, a diploma, regaining custody of a child, or feeling better physically as a result of living without drugs. Because these "natural" reinforcers are the byproduct of successful treatment, they add no extra program costs. We'll discuss them further under question #12 below.

11 What happens if the treatment provider and the criminal justice supervisor disagree about an incentive or sanction? Given the somewhat differing goals of substance-abuse treatment and criminal justice, it's not surprising that professionals representing these different systems might sometimes disagree about a sanction or incentive. For example, if a parole officer responded to repeated dirty urines by removing an offender from a job-training program, the treatment provider might object, insisting that the offender be re-instated. While the parole officer might view job training as a privilege, the treatment provider would likely see it as a step toward the goal of employment, especially if the offender were making progress in the training. If left unresolved, disagreements like this can get in the way of the consistency and immediacy necessary to make sanctions and incentives work well.

The ideal solution is to *prevent* conflicts by agreeing ahead of time about the behavioral goals for each offender and the exact circumstances that will justify the imposition of a particular sanction or incentive. The process of forging these agreements offers an opportunity for criminal justice supervisors and treatment providers to understand one another's perspectives. Continuing the example above—the supervisor might come to understand why the therapist thinks removal from job training is overly punitive and counterproductive; and the therapist might come to appreciate the supervisor's conviction that a dirty urine sample, as a clear violation of the law, warrants the withdrawal of a privilege.

Even with prior agreements, however, there are certain to be unforeseen questions and problems. It's even possible that the treatment provider and the criminal justice supervisor could be observing completely different behavior from the same person. For example, in treatment an offender might be showing up at all sessions and participating actively, while in the community she or he is violating curfew rules.³⁰ Even

if both professionals follow their prior agreement meticulously, they might come to very different conclusions about what sanctions or incentives would be appropriate.

For this reason, in addition to making agreements ahead of time, it's important to schedule regular case conferences that bring together all those working with the offender. Ultimately, both the criminal justice and treatment systems are striving for the same outcomes: eliminating substance abuse; reducing recidivism; and encouraging pro-social behavior. By maintaining open lines of communication, professionals can draw on this common ground to ensure that sanctions and incentives are implemented in a way that reaps the greatest possible benefits for the offenders under their responsibility.

“Cross-training” is an excellent way to foster communication among professionals from different service systems. We recommend a curriculum developed by the “Addiction Technology Transfer Centers” (ATTC) that “addresses the issues of building cross-disciplinary understanding and cooperation for the addiction treatment, mental health and criminal justice professionals and agencies serving the substance abusing offender.” The full curriculum is available in pdf format at www.nattc.org/reentry/training_overview. (Click on “Resources” and scroll down to “Curriculum.”)

12 What happens after an offender leaves supervision and we're no longer there to provide reinforcement? Will the new behavior stick?

In laboratory settings, when rewards and punishments are discontinued, behavior quickly reverts to “baseline.”³¹ So we can predict that unless an offender's life circumstances change, even someone who is doing well under supervision is likely to resume substance abuse and criminal activity when supervision ends. To maintain new behaviors, there needs to be a transition from the consequences that *you* provide to rewards that come from the offender's own environment.³² These “natural” consequences—such as a paycheck, better relationships with family members and friends, or feeling physically well—can continue independent of you.

Natural consequences are likely to be far more effective than the incentives and sanctions that you administer. Research on the use of “informal social controls” shows that family, peers, and community have a more direct impact on offender behavior than “formal social controls” such as law enforcement or supervision—in part because offenders respond more positively to the needs and desires of family, friends and other community supports than they do to the demands of authorities.³³ All this points to the importance of helping offenders reintegrate back into the community by building supportive relationships and networks.

You can begin to lay the groundwork for the transition to natural reinforcers at the very beginning of supervision by assessing the offender's life situation, helping them set realistic goals, and then designing a tailored system of responses that will help them reach those goals. Here's how that groundwork was laid in the “fishbowl” approach described above under question #10.

“We typically do a personal needs assessment during the first week in treatment. We assess needs across about 10 different dimensions—education, employment status, housing, family relationships, social and

recreational activities, and so on. The patients select two or three of those areas. Then each week, we and the patient agree upon some specific activity related to those treatment goals. The activity must be feasible to complete within the upcoming week and objectively verifiable. For instance, ‘improving my health’ is not an appropriate activity to select, because it is too vague. But ‘calling a doctor's office and making an appointment’ is a good activity because it is doable and verifiable. We might verify it by having the patient call from our office, and immediately he or she is rewarded. The next week, if the patient keeps the appointment and brings back a slip of paper showing his or her attendance, that behavior is reinforced as well. The goal is for the activities to build on each other week by week.”³⁴

Some programs choose to involve family members in the initial process of assessment, goal setting, and tailoring a program of incentives and sanctions. Family members offer unique insights and, in some cases, can even be trained to understand and respond effectively to the offender's behavior. In this way, the supervisor works with the offender and the offender's natural support system to develop controls that will endure beyond the justice system.³⁵

The following story (again, from the fishbowl study) recounts a successful transition from rewards given under supervision to natural rewards.

“We had one patient who had lost contact with his adult son and had grandkids he had never met. One week he said he wanted to reestablish contact with his son. He wrote a letter and brought in the letter as verification. We mailed it with him, and so then he earned his draw from the fishbowl for completing that activity. The next week he wanted to call his son, so he did that from our office. The next week he met his son at a restaurant and brought back the receipt. After a couple of weeks he got to meet the grandkids. And then for

the rest of treatment he would take the grandkids somewhere every Saturday morning. About a year later, a research assistant ran into the former patient at an Easter egg hunt with his grandchildren. The man said that he was still taking his grandkids somewhere every Saturday morning and this has kept him sober...”³⁶

Although this success story focuses on the skillful use of incentives, it is important to recognize that incentives and sanctions are just one tool in the effort to bring about behavior change. The answers to the questions posed above demonstrate that to be effective, incentives and sanctions need to be interwoven with other aspects of a program:

- To identify incentives and sanctions that will be meaningful to each offender, the program must conduct a thorough initial assessment and ongoing reassessment.
- To ensure that offenders feel in control of (and accountable for) the program’s responses to their behavior, staff must have the time and skill to communicate clearly with offenders about what is expected and the consequences of meeting or not meeting these expectations.
- To respond to offender behavior in a timely and consistent way, there must be close supervision and well-coordinated case management with clear, ongoing communication among all the professionals involved with each offender.
- To make it more likely that offenders will perceive incentives and sanctions as “fair,” staff need the skills to build trusting relationships.
- To make it possible for offenders to transition gradually from program-imposed sanctions and incentives to “natural” consequences, the program must involve families in building a network of community supports that will continue after the offender has left the program.

Ultimately, the effectiveness of incentives and sanctions depends on the quality of the program as a whole.

Notes

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- 2 Greenfeld, Lawrence A., and Henneberg, Maureen. (2001) "Victim and Offender Self-Reports of Alcohol Involvement in Crime," *Alcohol Research and Health* Vol. 25, No. 1. (2001) page 23.
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- 6 Presentation by graduates of the Jackson County Family Drug Court, Kansas City, MO, (May 11, 2004).
- 7 Marlowe and Kirby, pages vii–ix.
- 8 The study is being conducted by Douglas Marlowe, Ph.D. Senior Scientist, Treatment Research Institute, University of Pennsylvania.
- 9 Meyer, Section 9b. Citation to: *Higgins, S.T., and Silverman, K. (1999). *Motivating Behavior Change Among Illicit-Drug Abusers*. Washington, DC: American Psychological Association, p. 330.
- 10 Belenko, Stephen. *Statement to the House Subcommittee on Criminal Justice, Drug Policy and Human Resources*, Committee on Government Reform Oversight Hearing "Drug Treatment Options for the Justice System." United States House of Representatives, Committee on Government Reform. (April 4, 2000)
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- 12 Meyer, Section 9d. Citations to: * Marlowe, D.B., and Kirby, K.C. (1999). "Effective Use of Sanctions in Drug Courts: Lessons from Behavioral Research." *National Drug Court Institute Review*, II (1). 11–xxix. *Higgins, S.T., and Petry, N.M. (1999). "Contingency Management: Incentives for Sobriety." *Alcohol Research and Health*, 23 (2), 122–127.
- 13 Marlowe and Kirby, page iv.
- 14 Meyer, Section 8e.
- 15 Marlowe and Kirby, page xi.
- 16 See Delany, P., Fletcher, B., & Shields, J. "Reorganizing care for the substance abusing offender: A case for collaboration." *Federal Probation*. (September, 2003) pages 64–68.
- 17 "Substance Abusing Offenders: Been there, done that...and now what's next?" A presentation by Dr. Faye Taxman to the Focus Group on the Substance Abusing Offender, Sponsored by the Bureau of Justice Assistance. Washington, DC. (July 24, 2003) See also Taxman, Faye S. "Supervision: Exploring the Dimensions of Effectiveness." *Federal Probation*. Volume 66, Number 2. Pages 14–26.
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- 22 National Drug Court Institute. *The Carrot or the Stick in America's Drug Courts: Review of Recent Scientific Research on Sanctions and Incentives with Implications on Drug Court Effectiveness*. By Gregory L. Little, Advanced Training Associates with input from Judge William Meyer, C. West Huddleston, and Jane Pfeifer. (Unpublished document) NDCI. (January 2002) page 27.
- 23 Marlowe and Kirby, pages xiii–xv.
- 24 Marlowe and Kirby, pages ix–xi..
- 25 National Drug Court Institute. *The Carrot or the Stick*, page 28.
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- 28 Petry and Bohn, page 56.
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- 34 Petry and Bohn, page 58.
- 35 Taxman, pages 14–27.
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Further Reading

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